

**SENATE BILL 391**

1           **SECTION 116.** 55.06 (4) of the statutes is amended to read:

2           55.06 (4) A petition for guardianship if required under sub. (2) (b) must be  
3 heard prior to placement under this section. If incompetency has been determined  
4 ~~under s. 880.33~~ adjudicated in this state more than one year preceding the filing of  
5 an application for protective placement, the court shall review the finding of  
6 incompetency.

7           **SECTION 117.** 55.06 (5) of the statutes is amended to read:

8           55.06 (5) Notice of a petition for placement shall be served upon the person  
9 sought to be placed, by personal service, at least 10 days prior to the time set for a  
10 hearing. Upon service of the notice, the person sought to be protected shall be  
11 informed of the complete contents of the notice. The person serving the notice shall  
12 return a certificate to the circuit judge verifying that the petition has been delivered  
13 and notice given. The notice shall include the names of all petitioners. Notice shall  
14 also be served personally or by mail upon the person's guardian ad litem, legal  
15 counsel, guardian, if any, presumptive adult heirs, and upon other persons who have  
16 physical custody of the person to be protected whose names and addresses are known  
17 to the petitioner or can with reasonable diligence be ascertained, to any  
18 governmental or private body or group from whom the person to be protected is  
19 known to be receiving aid, and to such other persons or entities as the court may  
20 require. Notice shall also be served personally or by mail upon the department at  
21 least 10 days prior to the time set for hearing if the person sought to be protected may  
22 be placed in a center for the developmentally disabled. Notice shall also be served  
23 personally or by mail, at least 10 days before the time set for hearing, upon the county  
24 department that is participating in the program under s. 46.278 of the county of  
25 residence of the person sought to be protected, if the person has a developmental

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1 disability and may be placed in an intermediate facility or a nursing facility, except  
2 that, for a person sought to be protected to whom s. 46.279 (4m) applies, this notice  
3 shall instead be served on the department. The individual adjudicated incompetent  
4 or proposed ~~incompetent~~ for a determination of incompetency is presumed able to  
5 attend the hearing unless, after a personal interview, the guardian ad litem certifies  
6 to the court that the person is unable to attend.

7 **SECTION 118.** 55.06 (6) of the statutes is amended to read:

8 55.06 (6) ~~Section 880.33 (2) applies~~ Sections 54.42, 54.44, and 54.46 apply to  
9 all hearings under this chapter except for transfers of placement under sub. (9) (b),  
10 and (c) and (e). A person to be protected shall have a guardian ad litem who is an  
11 attorney appointed in accordance with s. 757.48 (1) present at all hearings under this  
12 chapter if the person does not have full legal counsel. The court may, however, excuse  
13 a personal appearance by a guardian ad litem based on information contained in a  
14 written report by the guardian ad litem to the court. If the person is an adult who  
15 is indigent, the county of legal settlement shall be liable for guardian ad litem fees.  
16 If the person is a child, the person's parents or the county of legal settlement shall  
17 be liable for guardian ad litem fees as provided in s. 48.235 (8). The subject  
18 individual, attorney or guardian ad litem shall have the right to present and  
19 cross-examine witnesses, including any person making an evaluation or review  
20 under sub. (8) (c).

21 **SECTION 119.** 55.06 (8) (c) of the statutes is amended to read:

22 55.06 (8) (c) A medical, psychological, social, vocational and educational  
23 evaluation and review, where necessary, and any recommendations for or against  
24 maintenance of partial legal rights as provided in s. ~~880.33~~ 54.25 (2). Such

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1 evaluation and review shall include recommendations for placement consistent with  
2 the least restrictive environment required.

3 **SECTION 120.** 55.06 (10) (c) of the statutes is amended to read:

4 55.06 (10) (c) Except in the case of a minor who is developmentally disabled and  
5 who has a parent or person in the place of a parent, termination of guardianship  
6 automatically revokes any protective placement made or protective services  
7 provided under this chapter unless the placement or services are continued on a  
8 voluntary basis. Notice to this effect shall be given to the ward by the provider of  
9 services at the time of termination. If protective placement is made or protective  
10 services are provided under this chapter to a minor who is developmentally disabled,  
11 the attainment of the age of majority by ~~such~~ the individual automatically revokes  
12 any such protective placement made or protective services provided unless the  
13 placement or services are continued on a voluntary basis, or there is ~~a finding an~~  
14 adjudication of incompetency and appointment of a guardian ~~pursuant to ch. 880 in~~  
15 this state.

16 **SECTION 121.** 55.06 (14) of the statutes is amended to read:

17 55.06 (14) Prior to discharge of an individual from a protective placement, the  
18 ~~appropriate board which county department that~~ is responsible for protective  
19 placement shall review the need for ~~provision of~~ continuing protective services ~~or for,~~  
20 continuation of full or limited guardianship, ~~or provision for such guardianship,~~ if  
21 the individual has no guardian, guardianship. ~~Recommendation shall be made to the~~  
22 ~~court if~~ If the county department's recommendation includes a course of action for  
23 which court approval would be required, the county department shall make the  
24 recommendation to the court. Prior to discharge of the individual from any state

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1 mental health institute or center for the developmentally disabled, the department  
2 shall make ~~such~~ the review under s. 51.35.

3 **SECTION 122.** 55.06 (17) (b) of the statutes is amended to read:

4 55.06 (17) (b) If the subject is ~~an adult who has been adjudged adjudicated~~  
5 ~~incompetent under ch. 880 in this state or is~~ a minor, consent for release of  
6 information from and access to the court records may be given only as provided in  
7 s. 51.30 (5). INSERT 106-7

8 **SECTION 123.** 55.14 of the statutes is created to read:

9 **55.14 Involuntary administration of psychotropic medication.** (1) In  
10 this section:

11 (a) “Involuntary administration of psychotropic medication” means any of the  
12 following:

13 1. Placing psychotropic medication in an individual’s food or drink with  
14 knowledge that the individual protests receipt of the psychotropic medication.

15 2. Forcibly restraining an individual to enable administration of psychotropic  
16 medication.

17 3. Requiring an individual to take psychotropic medication as a condition of  
18 receiving privileges or benefits.

19 (c) “Protest” means make more than one discernible negative response, other  
20 than mere silence, to the offer of, recommendation for, or other proffering of  
21 voluntary receipt of psychotropic medication. “Protest” does not mean a discernible  
22 negative response to a proposed method of administration of the psychotropic  
23 medication.

24 (d) “Psychotropic medication” means a prescription drug, as defined in s. 450.01  
25 (20), that is used to treat or manage a psychiatric symptom or challenging behavior.

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1 (2) Involuntary administration of psychotropic medication, with consent of a  
2 guardian, may be ordered as a protective service only under the requirements of this  
3 section.

4 (3) In addition to the other requirements of this chapter pertaining to petitions  
5 for protective services, a petition under this section shall allege that all of the  
6 following are true:

One of the following is true:  
#1,

7 (a) A physician has prescribed psychotropic medication for the individual.

8 (b) The individual is not competent to refuse psychotropic medication.

9 (c) The individual has refused to take the psychotropic medication voluntarily  
10 or attempting to administer psychotropic medication to the individual voluntarily is  
11 not feasible or is not in the best interests of the individual. If the petition alleges that  
12 the individual has refused to take psychotropic medication voluntarily, the petition  
13 shall identify, if known, the reasons the individual refuses to take psychotropic  
14 medication voluntarily. <sup>and</sup> The petition also shall provide evidence showing that a  
15 reasonable number of documented attempts to administer psychotropic medication  
16 voluntarily using appropriate interventions that could reasonably be expected to  
17 increase the individual's willingness to take psychotropic medication voluntarily  
18 have been made and have been unsuccessful. <sup>#2.</sup> If the petition alleges that attempting  
19 to administer psychotropic medications to the individual voluntarily is not feasible  
20 or is not in the best interests of the individual, the petition must identify specific  
21 reasons supporting that allegation. <sup>use twice</sup>

22 (d) The individual's condition for which psychotropic medication has been  
23 prescribed is likely to be improved by administration of psychotropic medication and  
24 the individual is likely to respond positively to psychotropic medication.

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1 (e) Unless psychotropic medication is administered involuntarily, the  
2 individual will incur ~~an immediate or imminent~~<sup>a</sup> substantial probability of physical  
3 harm, impairment, injury, or debilitation or will present a substantial probability of  
4 physical harm to others. The substantial probability of physical harm, impairment,  
5 injury, or debilitation shall be evidenced by one of the following:

6 1. The individual's history of at least 2 episodes, one of which has occurred  
7 within the previous 24 months, that indicate a pattern of overt activity, attempts,  
8 threats to act, or omissions that resulted from the individual's failure to participate  
9 in treatment, including psychotropic medication, and that resulted in a finding of  
10 probable cause for commitment under s. 51.20 (7), a settlement agreement approved  
11 by a court under s. 51.20 (8) (b), or commitment ordered under s. 51.20 (13).

12 2. Evidence that the individual meets one of the dangerousness criteria set  
13 forth in s. 51.20 (1) (a) 2. a. to e.

14 (4) A petition under this section must include a written statement signed by  
15 a physician who has personal knowledge of the individual that provides general  
16 clinical information regarding the appropriate use of psychotropic medication for the  
17 individual's condition and specific data that indicates that the individual's current  
18 condition necessitates the use of psychotropic medication.

19 (5) The guardian ad litem appointed under s. 55.06 (6) for an individual who  
20 is the subject of a petition under this section shall report to the court whether the  
21 allegations in the petition required under sub. (3) are true, and whether involuntary  
22 administration of psychotropic medication is in the best interests of the individual.

23 (6) If requested by an individual who is the subject of a petition under this  
24 section or anyone on his or her behalf, the individual has the right at his or her own  
25 expense, or if indigent at the expense of the county in which the petition is filed, to

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1 secure an independent medical or psychological examination relevant to the issue of  
2 whether the allegations in the petition required under sub. (3) are true and whether  
3 involuntary administration of psychotropic medication is in the best interest of the  
4 individual, and to present a report of this independent evaluation or the evaluator's  
5 personal testimony as evidence at the hearing.

6 (7) Upon the filing of a petition under this section, the court shall appoint  
7 counsel. A petition under this section shall be heard under s. 55.06 within 30 days  
8 after it is filed.

9 (8) The court may issue an order authorizing an individual's guardian to  
10 consent to involuntary administration of psychotropic medication to the individual  
11 and may order involuntary administration of psychotropic medication to the  
12 individual as a protective service, with the guardian's consent if the court or jury  
13 finds by clear and convincing evidence that the allegations in the petition required  
14 under sub. (3) are true, all other requirements for involuntary administration of  
15 psychotropic medication under this section have been met, psychotropic medication  
16 is necessary for treating the condition described in the statement under sub. (4), and  
17 all other requirements of this chapter for ordering protective services have been met.  
18 An order under this section shall do all of the following:

19 (a) Direct the development of a treatment plan for the individual specifying the  
20 protective services, including psychotropic medication as ordered by the treating  
21 physician, that the individual should receive. If the individual resides in a nursing  
22 home or hospital, the nursing home or hospital shall develop the treatment plan. If  
23 the individual resides elsewhere, the county department or an agency with which it  
24 contracts shall develop the treatment plan. The treatment plan shall include a plan  
25 for the involuntary administration of psychotropic medication to the individual. The

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1 treatment plan is subject to the approval of the guardian and to review and approval  
2 by the court. If the court approves the plan, the court shall order the county  
3 department or an agency with which it contracts to ensure that protective services,  
4 including psychotropic medication, are administered in accordance with the  
5 treatment plan.

6 (b) Order the individual to comply with the treatment plan under par. (a). The  
7 order shall provide that if the individual fails to comply with provisions of the  
8 treatment plan that require the individual to take psychotropic medications, the  
9 medications may be administered involuntarily with consent of the guardian. The  
10 order shall specify the methods of involuntary administration of psychotropic  
11 medication to which the guardian may consent. An order authorizing the forcible  
12 restraint of an individual shall specify that a person licensed under s. 441.06, 441.10,  
13 or 448.05 (2) or (5) shall be present at all times that psychotropic medication is  
14 administered in this manner and shall require the person or facility using forcible  
15 restraint to maintain records stating the date of each administration, the medication  
16 administered, and the method of forcible restraint utilized.

17 (9) If an individual who is subject to an order under this section is not in  
18 compliance with the order because he or she refuses to take psychotropic medication  
19 as ordered under the treatment plan, and it is necessary for the individual to be  
20 transported to an appropriate facility for forcible restraint for administration of  
21 psychotropic medication, the corporation counsel shall file with the court a  
22 statement of the facts which constitute basis for the noncompliance of the individual.  
23 The statement shall be sworn to be true and shall be based upon the information and  
24 belief of the person filing the statement. The statement shall be signed by the  
25 individual's guardian and by the director or designee of the county department or an



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1 agency with which it contracts to develop and administer the treatment plan. Upon  
2 receipt of the statement of noncompliance, if the court finds by clear and convincing  
3 evidence that the individual has substantially failed to comply with the  
4 administration of psychotropic medication as ordered under the treatment plan, the  
5 court may issue an order authorizing the sheriff or any other law enforcement agency  
6 in the county in which the individual is found or in which it is believed that the  
7 individual may be present to take the individual into custody and transport him or  
8 her to an appropriate facility for administration of psychotropic medication using  
9 forcible restraint, with consent of the guardian.

10 (10) Nothing in this section prohibits the involuntary administration of  
11 psychotropic medication as an emergency protective service under this chapter.

12 (11) The county department or an agency with which it contracts shall provide  
13 to the department a copy of any order issued under this section that applies to any  
14 protectively placed individual in the county.

15 (12) The department shall annually submit to the legislature under s. 13.172  
16 (2) a report regarding orders under this section.

17 (13) An order under this section is subject to annual review under s. 55.19.

18 **SECTION 124.** 55.19 of the statutes is created to read:

19 **55.19 Annual review of order authorizing involuntary administration**  
20 **of psychotropic medication.** In addition to or in conjunction with the annual  
21 review required under s. 55.06 (10), all of the following shall be performed with  
22 respect to any individual who is subject to an order under s. 55.14 or an order initially  
23 issued under s. 880.33 (4r), 2003 stats., authorizing involuntary administration of  
24 psychotropic medication:

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(1) COUNTY DEPARTMENT PERFORMANCE OF REVIEW. (a) The county department of the individual's county of residence shall, except as provided in sub. (1m), review, in compliance with the requirements of this section, the status of each individual who is the subject of the order. The review shall include a visit to the individual and a written evaluation of the physical, mental, and social condition of the individual that is relevant to the issue of the continued need for the order. The review shall be made a part of the permanent record of the individual. The county department shall inform the guardian of the individual of the review at the time the review is made and shall invite the individual and the guardian to submit comments or information concerning the individual's need for involuntary administration of psychotropic medication or other protective services before completing a report of the review. Not later than the first day of the 11th month after the initial order is made for an individual, except as provided in par. (b), and at least annually thereafter, the county department shall do all of the following:

1. File a report of the review with the court that issued the order.
2. File with the court under subd. 1. a petition for annual review by the court of the order.
3. Provide the report under subd. 1. to the individual and the guardian of the individual.

(b) If, in an annual review of an individual's status under par. (a), the individual or the individual's guardian or guardian ad litem requests termination of the order and a full due process hearing is provided, or if a full due process hearing is provided under a petition for modification or termination of the order, the county department is not required to initiate a subsequent review under par. (a) until the first day of the

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1 11th month after the date that the court issues a final order after the full due process  
2 hearing.

3 (bm) If the individual is subject to a protective placement order, the review  
4 under par. (a) shall be conducted simultaneously with any review of the individual's  
5 protective placement.

6 (c) The review under par. (a) may not be conducted by a person who is an  
7 employee of a facility in which the individual resides or from which the individual  
8 receives services. The report of the review shall include information on all of the  
9 following:

10 1. Whether the individual continues to meet the standards for protective  
11 services.

12 2. Whether the individual is not competent to refuse psychotropic medication,  
13 as defined in s. 55.14 (1) (b).

14 3. Whether the individual continues to refuse to take psychotropic medication  
15 voluntarily or attempting to administer psychotropic medication to the individual  
16 voluntarily is not feasible or is not in the best interests of the individual, as specified  
17 in s. 55.14 (3) (c).

18 4. Whether the individual's condition for which psychotropic medication has  
19 been prescribed has been improved by psychotropic medication and the individual  
20 has responded positively to psychotropic medication.

21 5. If the petitioner alleged under s. 55.14 (3) (e) 2. that the individual meet one  
22 of the dangerousness criteria set forth in s. 51.20 (1) (a) 2. a. to e., whether the  
23 individual continues to meet the criterion.

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1           6. The comments of the individual and the individual's guardian during the  
2 performance of the review, as summarized by the county department, and the  
3 response of the county department to the comments.

4           7. The comments, if any, of a staff member at the facility at which the individual  
5 is placed or receives services or at which psychotropic medication is administered to  
6 the individual that are relevant to the review of the continued need for the order.

7           **(1m) COUNTY AGREEMENT.** The county of residence of an individual who is  
8 subject to an order under s. 55.14 and is protectively placed in a different county may  
9 enter into an agreement with that county under which the county of the individual's  
10 placement performs all or part of the duties of the county of residence under this  
11 section.

12           **(2) GUARDIAN AD LITEM APPOINTMENT AND REPORT.** After a county department has  
13 filed a report with a court under sub. (1) (a) 1., the court shall appoint a guardian ad  
14 litem in accordance with s. 757.48 (1). The guardian ad litem shall do all of the  
15 following:

16           (a) Review the report filed under sub. (1) (a) 1. and any other relevant reports  
17 on the individual's condition and continued need for the order under s. 55.14.

18           (b) Meet with the individual and contact the individual's guardian and orally  
19 explain to the individual and guardian all of the following:

20           1. The procedure for review of an order for involuntary administration of  
21 psychotropic medication.

22           2. The right of the individual to appointment of legal counsel under sub. (3) (c).

23           3. That the court may under sub. (3) (b) 1. order performance of an evaluation.

24           4. The contents of the report under sub. (1) (a) 1.

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1           5. That a termination of the order for involuntary administration of  
2 psychotropic medication may be ordered by the court.

3           6. The right to a full due process hearing under sub. (3) (d).

4           (c) Provide the information required under par. (b) to the individual in writing.

5           (d) Review the individual's condition and rights with the individual's guardian.

6           (e) Ascertain whether the individual wishes to exercise any of his or her rights  
7 under sub. (3) (b), (c), or (d).

8           (f) Within 30 days after appointment, file with the court a written report based  
9 on information obtained under this subsection and any other evaluations or records  
10 of the individual. The report shall discuss whether the individual appears to  
11 continue to meet the standards for an order under s. 55.14. The report shall also state  
12 whether any of the following apply:

13           1. An evaluation under sub. (3) (b) is requested by the guardian ad litem, the  
14 individual, or the individual's guardian.

15           2. The individual or the individual's guardian requests termination of the order  
16 under s. 55.14.

17           3. The individual or the individual's guardian requests or the guardian ad litem  
18 recommends that legal counsel be appointed for the individual.

19           4. The individual or his or her guardian or guardian ad litem requests a full due  
20 process hearing under this section for the individual.

21           (g) Certify to the court that he or she has complied with the requirements of  
22 pars. (b), (c), and (d).

23           **(3) COURT REVIEW OF REPORTS; HEARING; ORDER.** (a) The court that issued the  
24 order under s. 55.14 shall review the report of the guardian ad litem under sub. (2)  
25 (f) and the report filed under sub. (1) (a) 1.

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1 (b) The court shall order performance, by a person who is not an employee of  
2 the county department, of an evaluation of the physical, mental, and social condition  
3 of the individual that is relevant to the issue of the continued need for the order under  
4 s. 55.14 that is independent of the review performed under sub. (1) (a) if any of the  
5 following apply:

6 1. The report required under sub. (1) (a) 1. is not timely filed, or the court  
7 determines that the report fails to meet the requirements of sub. (1) (c).

8 2. Following review of the guardian ad litem's report under sub. (2) (f), the court  
9 determines that an independent evaluation for the individual is necessary.

10 3. The individual or the individual's guardian or guardian ad litem so requests.

11 (bm) If an evaluation is ordered under par. (b), it shall be performed at the  
12 expense of the individual or, if the individual is indigent, at the expense of the county  
13 of residence under sub. (1) (a).

14 (br) The court may order that the county department obtain any other  
15 necessary information with respect to the individual.

16 (c) The court shall order legal counsel for an individual and, if the individual  
17 appears to be indigent, refer him or her to the authority for indigency determinations  
18 under s. 977.07 (1) if any of the following apply:

19 1. Following review of the guardian ad litem's report under sub. (2) (f), the court  
20 determines that legal counsel for the individual is necessary.

21 2. The individual or the individual's guardian or guardian ad litem so requests.

22 (d) The court shall order either a summary hearing or a full due process  
23 hearing. A summary hearing may be held in court or may be held by other means  
24 including by telephone or video conference. The court shall hold a full due process  
25 hearing if any of the following apply:

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- 1           1. The individual or the individual's guardian or guardian ad litem so requests.
- 2           2. The report under sub. (2) (f) indicates that the individual no longer meets the
- 3 standards for an order under s. 55.14 (8).
- 4           3. The report under sub. (2) (f) indicates that the individual objects to the order.
- 5           (e) Following the hearing under par. (d), the court shall do one of the following:
- 6           1. If the court finds that the individual continues to meet the standards for an
- 7 order under s. 55.14 (8), the court shall order the continuation of the order. The court
- 8 shall include in the decision the information relied upon as a basis for continuation
- 9 of the order and shall make findings based on the requirements for allegations of a
- 10 petition under s. 55.14 (3) in support of the need for continuation of the order.
- 11           2. If the court finds that the individual continues to meet the standards for an
- 12 order under s. 55.14 (8) but that modification of the order or the treatment plan would
- 13 be in the best interests of the individual, the court shall modify the order, order
- 14 modifications to the individual's treatment plan, or both. Any modifications to the
- 15 treatment plan are subject to the approval of the guardian. The court shall include
- 16 in the decision the information relied upon as a basis for continuation of the order
- 17 and shall make findings based on the requirements for allegations of a petition under
- 18 s. 55.14 (3) in support of the need for authorizing the guardian to consent to
- 19 involuntary administration of psychotropic medication.
- 20           3. If the court finds that the individual no longer meets the standards for an
- 21 order under s. 55.14 (8), the court shall terminate the order. If the order is
- 22 terminated, the court shall review the needs of the individual with respect to other
- 23 protective services. If the court determines that the individual meets the standards
- 24 for other protective services under this chapter that are not currently being provided
- 25 to the individual, the court may order those protective services for the individual.

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(f) The court shall provide a copy of the order made under par. (e) to all of the following:

1. The individual.
2. The individual's guardian, guardian ad litem, and legal counsel, if any.
3. The facility in which the individual resided, if any, when the petition for annual review was filed.
4. The county department under sub. (1) (a) and, if relevant, sub. (1m).

**SECTION 125.** 55.195 (7) of the statutes is created to read:

55.195 (7) Provide a summary written report to the court.

**SECTION 126.** 55.195 (9) of the statutes is created to read:

55.195 (9) Attend the hearing.

**SECTION 127.** 58.05 (2) of the statutes is amended to read:

58.05 (2) Any person who is mentally ill or ~~retarded~~ developmentally disabled may, upon the written request of his or her guardian, be committed to any such hospital or institution in the manner persons who are ~~adjudged mentally adjudicated~~ incompetent are committed to the state hospitals; but the county in which ~~such~~ the person resides shall be liable for his or her support, maintenance, and treatment only when he or she has been committed upon the request of the county board, and ~~such~~ the hospital or institution ~~shall not be~~ is not required to keep, care for, or treat any person who is mentally ill or ~~retarded~~ developmentally disabled longer than his or her guardian or, friends, or the county from which he or she shall have been committed shall defray the expenses of his or her care and treatment. Any person may voluntarily place himself or herself in such hospital, asylum, or institution for care and treatment.

**SECTION 128.** 66.0915 (1) of the statutes is amended to read:



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1           66.0915 (1) PRIVATE VIADUCTS IN CITIES, VILLAGES AND TOWNS. The privilege of  
2     erecting a viaduct above a public street, road, or alley, for the purpose of connecting  
3     buildings on each side, may be granted by the city council, village board, or town  
4     board upon the written petition of the owners of all the frontage of the lots and lands  
5     abutting the portion sought to be connected, and the owners of more than one-half  
6     of the frontage of the lots and lands abutting upon that portion of the remainder that  
7     lies within 2,650 feet from the ends of the portion proposed to be connected. If a lot  
8     or land is owned by the state, or by a county, city, village, or town, or by a minor or  
9     individual adjudicated incompetent person, or the title to the lot or land is held in  
10    trust, the petition may be signed by the governor, the chairperson of the county  
11    board, the mayor of the city, the president of the board of trustees of the village, the  
12    chairperson of the town board, the guardian of the minor or individual adjudicated  
13    incompetent person, or the trustee, respectively, and the signature of a private  
14    corporation may be made by its president, secretary, or other principal officer or  
15    managing agent. Written notice stating when and where the petition will be acted  
16    upon, and describing the location of the proposed viaduct, shall be given by the city  
17    council, village board, or town board by publication of a class 3 notice, under ch. 985.

18           **SECTION 129.** 66.0915 (2) of the statutes is amended to read:

19           66.0915 (2) REMOVAL OF PRIVATE VIADUCTS. A viaduct in a city, village, or town  
20    may be discontinued by the city council, village board, or town board, upon written  
21    petition of the owners of more than one-half of the frontage of the lots and lands  
22    abutting on the street or road approaching on each end of the viaduct, which lies  
23    within 2,650 feet from the ends of the viaduct. If a lot or land is owned by the state,  
24    or by a county, city, village, or town, or by a minor or individual adjudicated  
25    incompetent person, or the title to the lot or land is held in trust, the petition may

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## SECTION 129

1 be signed by the governor, the chairperson of the county board, the mayor of the city,  
2 the president of the board of trustees of the village, the chairperson of the town board,  
3 the guardian of the minor or individual adjudicated incompetent person, or the  
4 trustee, respectively, and the signature of a private corporation may be made by its  
5 president, secretary, or other principal officer or managing agent. Written notice  
6 stating when and where the petition will be acted upon, and stating what viaduct is  
7 proposed to be discontinued, shall be given by the city council, village board, or town  
8 board by publication of a class 1 notice, under ch. 985, not less than one year before  
9 the day fixed for the hearing and a class 3 notice, under ch. 985, within the 30 days  
10 before the date of the hearing.

11 **SECTION 130.** 71.07 (3m) (a) 1. e. of the statutes is amended to read:

12 71.07 (3m) (a) 1. e. For purposes of filing a claim under this subsection, when  
13 a guardian has been appointed ~~under ch. 880~~ in this state for a ward who owns the  
14 farmland, the claimant shall be the guardian on behalf of the ward.

15 **SECTION 131.** 71.28 (2m) (a) 1. e. of the statutes is amended to read:

16 71.28 (2m) (a) 1. e. For purposes of filing a claim under this subsection, when  
17 a guardian has been appointed ~~under ch. 880~~ in this state for a ward who owns the  
18 farmland, the claimant shall be the guardian on behalf of the ward.

19 **SECTION 132.** 71.47 (2m) (a) 1. e. of the statutes is amended to read:

20 71.47 (2m) (a) 1. e. For purposes of filing a claim under this subsection, when  
21 a guardian has been appointed ~~under ch. 880~~ in this state for a ward who owns the  
22 farmland, the claimant shall be the guardian on behalf of the ward.

23 **SECTION 133.** 71.58 (1) (f) of the statutes is amended to read:

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1           71.58 (1) (f) For purposes of filing a claim under this subchapter, when a  
2           guardian has been appointed ~~under ch. 880 in this state~~ for a ward who owns the  
3           farmland, the claimant shall be the guardian on behalf of the ward.

4           **SECTION 134.** 75.03 (title) of the statutes is amended to read:

5           **75.03 (title) Redeeming lands of minors, ~~incompetents~~ or individuals**  
6           **adjudicated incompetent.**

7           **SECTION 135.** 75.521 (8) of the statutes is amended to read:

8           **75.521 (8) DUTY OF THE COURT TO ENTER JUDGMENT IN DEFAULT CASES.** In the event  
9           of the failure to redeem or answer by any person having the right to redeem or answer  
10          as hereinabove provided, such person and all persons claiming under and through  
11          that person, from and after the date of the filing of the list of tax liens in the office  
12          of the clerk of the circuit court of the county, shall be forever barred and foreclosed  
13          of all right, title and interest and equity of redemption in and to the parcel described  
14          in such list of the tax liens, and upon filing of an affidavit of such default or failure  
15          of redemption by the county treasurer of such county, the court in which such list of  
16          tax liens is filed, shall render final judgment ordering and adjudging that the county  
17          is vested with an estate in fee simple absolute in such lands, subject, however, to all  
18          unpaid taxes and charges which are subsequent to the latest dated valid tax lien  
19          appearing on the list specified in sub. (3) (b) and to recorded restrictions as provided  
20          by s. 75.14 (4) and all persons, both natural and artificial, including the state of  
21          Wisconsin, infants, ~~incompetents~~ individuals adjudicated incompetent, absentees,  
22          and nonresidents who may have had any right, title, interest, claim, lien or equity  
23          of redemption in such lands, are forever barred and foreclosed of such right, title,  
24          interest, claim, lien or equity of redemption. Such judgment shall be deemed to be  
25          based on the latest dated valid tax lien appearing on the list of tax liens. No personal

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1 judgment shall be entered against any person having or claiming to have any right,  
2 title or interest in or lien upon said lands. Such judgment shall have the effect of the  
3 issuance of a tax deed or deeds and of judgment to bar former owners and quiet title  
4 thereon.

5 **SECTION 136.** 75.521 (12) (b) of the statutes is amended to read:

6 75.521 (12) (b) This section shall apply to and be valid and effective with  
7 respect to all defendants even though one or more be infants, ~~incompetents~~  
8 individuals adjudicated incompetent, absentees or nonresidents of the state of  
9 Wisconsin, provided that a guardian ad litem shall be appointed to serve for all  
10 persons known or unknown who have or may have an interest in the lands described  
11 in any list and who are or may be minors or ~~incompetents~~ individuals adjudicated  
12 incompetent at the date of filing such list. Such guardian ad litem may be appointed  
13 by the court without notice, and the fee for the services of the guardian ad litem as  
14 fixed by the court shall be paid by the county.

15 **SECTION 137.** 75.521 (13) (b) of the statutes is amended to read:

16 75.521 (13) (b) In the event that the court shall determine that the issue raised  
17 by the answer of the defendant is without merit, a final judgment to such effect shall  
18 be entered ordering and adjudging that the county is vested with an estate in fee  
19 simple absolute in such lands subject, however, to all unpaid taxes and charges which  
20 are subsequent to the latest dated tax lien appearing on the list specified in sub. (3)  
21 (b) and to recorded restrictions as provided by s. 75.14, and all persons, both natural  
22 and artificial, including the state of Wisconsin, infants, ~~incompetents~~ individuals  
23 adjudicated incompetent, absentees and nonresidents who may have had any right,  
24 title, interest, claim, lien or equity of redemption in such lands, are forever barred  
25 and foreclosed of such right, title, interest, claim, lien or equity of redemption. Such

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1 judgment shall be deemed to be based on the latest dated tax lien appearing on the  
2 list of tax liens. Such judgment shall have the effect of the issuance of a tax deed or  
3 deeds and of judgment to bar former owners and quiet title thereon.

4 **SECTION 138.** 88.04 (2) of the statutes is amended to read:

5 88.04 (2) If any minor or individual adjudicated incompetent ~~person~~ owns land  
6 in a drainage district or proposed drainage district or proposed annex to a drainage  
7 district, the ~~general~~ guardian or next of kin of ~~such~~ the minor or ~~incompetent~~  
8 individual may sign petitions under this chapter for and on behalf of the minor or  
9 incompetent.

10 **SECTION 139.** 88.10 of the statutes is amended to read:

11 **88.10 Guardian ad litem; failure to appoint.** Failure to appoint a guardian  
12 ad litem in a proceeding under this chapter is not jurisdictional, but when the failure  
13 is discovered a guardian ad litem shall be appointed and an order served upon the  
14 guardian ad litem to show cause why the minor or ~~incompetent~~ individual  
15 adjudicated incompetent should not be bound by all prior proceedings pertaining to  
16 the drainage district. On such a hearing the court shall enter such order or judgment  
17 as the facts warrant.

18 **SECTION 140.** 92.03 (4) (intro.) of the statutes is amended to read:

19 92.03 (4) (intro.) “Landowner” means any person over 18 years of age and any  
20 partnership, limited liability company, firm, or corporation that holds title to land  
21 lying within a county, whether or not this land is subject to easement, mortgage, lien,  
22 lease, or restrictive covenant, except that this term does not include any person who  
23 is under guardianship, a person who is adjudicated incompetent, or a person who is  
24 mentally ill. A person, partnership, limited liability company, firm, or corporation

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1 is deemed to hold title to land if the person, partnership, limited liability company,  
2 firm, or corporation has any of the following:

3 **SECTION 141.** 93.11 (6) (a) 1. of the statutes is amended to read:

4 93.11 (6) (a) 1. That the licensee is adjudicated incompetent.

5 **SECTION 142.** 114.135 (2) of the statutes is amended to read:

6 114.135 (2) NOTICE; CLAIM FOR DAMAGES. In case of any airport landing field or  
7 landing and take-off strip owned by any city, village, town, or county or any union  
8 of them, the commission or other body in charge of the operation and control of the  
9 airport, landing field, or landing and take-off strip may prepare and record without  
10 charge with the register of deeds plans and specifications showing the protection  
11 privileges sought as described in sub. (1). The commission or other body in charge  
12 shall send by registered mail with return receipt to each owner at his or her  
13 last-known address a notice stating that the plans and specifications have been  
14 recorded with the register of deeds' office, stating the county, time of recording, the  
15 record number, and a brief description of the parcel of land or interest therein  
16 affected. If the address of the owner cannot be ascertained or the registered letter  
17 is returned unclaimed, notice shall be sent by registered mail to the person in  
18 possession of the premises. If no person is in possession, then the notice shall be  
19 posted in a conspicuous place on the land involved and published as a class 3 notice,  
20 under ch. 985, in the area affected. The right of the owner to claim for damages for  
21 the protection regulations imposed in the plans and specifications, or the removal of  
22 obstructions shall be forever barred, unless the owner files a claim for damages with  
23 the commission or other body in charge within 6 months from the receipt of the notice  
24 from the commission, or other body in charge, or the posting and last publication.  
25 The claim shall be verified and shall state the amount of damages claimed. The

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1 commission or other body in charge may pay the damages, if it has available funds,  
2 and the payment shall operate as a conveyance. If no claims for payment are filed  
3 or if payment is made, the commission or other body in charge shall file an affidavit  
4 for each parcel involved setting forth the rights acquired which shall be recorded by  
5 the register of deeds without charge and when so recorded has the same effect as any  
6 recorded instrument. If any owner is a minor or is adjudicated incompetent, the  
7 notice may be sent by registered mail to the owner's guardian, if he or she has one,  
8 and if there is none the circuit court of the county in which the land, or a larger part,  
9 is located shall upon application of the commission or other body in charge appoint  
10 a guardian to receive the notice, and to protect the rights of the owner. Any funds  
11 payable to the owner shall be cared for in the manner provided in ch. 880 54. If the  
12 commission or other body in charge determines that the damages claimed are  
13 excessive, it shall so report to the governing body that established the airport,  
14 landing field or landing and take-off strip in question and with its consent may  
15 acquire in the name of the governmental body the protection privilege desired in the  
16 manner set forth in sub. (1) or it may deposit with the county clerk an award and  
17 notify the owner of the land involved in the method specified in this subsection. The  
18 landowner may accept the award without prejudice to his or her right to claim and  
19 contest for a greater sum. The landowner may, within a period of 6 months after  
20 notice of the award, proceed as provided in ch. 32 to have the damages appraised.

21 **SECTION 143.** 115.76 (12) (b) 2. of the statutes is amended to read:

22 115.76 (12) (b) 2. The state, a county, or a child welfare agency, if a child was  
23 made a ward of the state, county, or child welfare agency under ch. 54 or ch. 880, 2003  
24 stats., or if a child has been placed in the legal custody or guardianship of the state,  
25 county, or child welfare agency under ch. 48 or ch. 767.

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## SECTION 144

1           **SECTION 144.** 115.797 (1) (c) of the statutes is amended to read:

2           115.797 (1) (c) “Party” means a competent adult pupil or the parent of a child  
3           or ~~incompetent~~ adult pupil adjudicated incompetent who is the subject of a dispute,  
4           and the local educational agency.

5           **SECTION 145.** 115.807 (intro.) of the statutes is amended to read:

6           **115.807 Transfer of parental rights at age of majority.** (intro.) When a  
7           child with a disability, other than a child with a disability who has been ~~determined~~  
8           ~~to be~~ adjudicated incompetent under ch. 880 in this state, reaches the age of 18, all  
9           of the following apply:

10          **SECTION 146.** 146.34 (1) (d) of the statutes is amended to read:

11          146.34 (1) (d) “Guardian” means the person named by the court under ch. 48  
12          or 54 or ch. 880, 2003 stats., having the duty and authority of guardianship.

13          **SECTION 147.** 146.81 (5) of the statutes is amended to read:

14          146.81 (5) “Person authorized by the patient” means the parent, guardian, or  
15          legal custodian of a minor patient, as defined in s. 48.02 (8) and (11), the person  
16          vested with supervision of the child under s. 938.183 or 938.34 (4d), (4h), (4m), or  
17          (4n), the guardian of a patient ~~adjudged~~ adjudicated incompetent, ~~as defined in s.~~  
18          ~~880.01 (3) and (4) in this state~~, the personal representative or spouse of a deceased  
19          patient, any person authorized in writing by the patient or a health care agent  
20          designated by the patient as a principal under ch. 155 if the patient has been found  
21          to be incapacitated under s. 155.05 (2), except as limited by the power of attorney for  
22          health care instrument. If no spouse survives a deceased patient, “person authorized  
23          by the patient” also means an adult member of the deceased patient’s immediate  
24          family, as defined in s. 632.895 (1) (d). A court may appoint a temporary guardian  
25          for a patient believed incompetent to consent to the release of records under this



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## SECTION 147

1 section as the person authorized by the patient to decide upon the release of records,  
2 if no guardian has been appointed for the patient.

3 **SECTION 148.** 146.82 (2) (a) 9. a. of the statutes is amended to read:

4 146.82 (2) (a) 9. a. In this subdivision, "abuse" has the meaning given in s. 51.62  
5 (1) (ag); "neglect" has the meaning given in s. 51.62 (1) (br); and "parent" has the  
6 meaning given in s. 48.02 (13), except that "parent" does not include the parent of a  
7 minor whose custody is transferred to a legal custodian, as defined in s. 48.02 (11),  
8 or for whom a guardian is appointed under s. 54.10 or s. 880.33, 2003 stats.

9 **SECTION 149.** 146.82 (2) (a) 9. c. of the statutes is amended to read:

10 146.82 (2) (a) 9. c. If the patient, regardless of age, has a guardian appointed  
11 under s. 54.10 or s. 880.33, 2003 stats., or if the patient is a minor with developmental  
12 disability, as defined in s. 51.01 (5) (a), who has a parent or has a guardian appointed  
13 under s. 48.831 and does not have a guardian appointed under s. 54.10 or s. 880.33,  
14 2003 stats., information concerning the patient that is obtainable by staff members  
15 of the agency or nonprofit corporation with which the agency has contracted is  
16 limited, except as provided in subd. 9. e., to the nature of an alleged rights violation,  
17 if any; the name, birth date and county of residence of the patient; information  
18 regarding whether the patient was voluntarily admitted, involuntarily committed  
19 or protectively placed and the date and place of admission, placement or  
20 commitment; and the name, address and telephone number of the guardian of the  
21 patient and the date and place of the guardian's appointment or, if the patient is a  
22 minor with developmental disability who has a parent or has a guardian appointed  
23 under s. 48.831 and does not have a guardian appointed under s. 54.10 or s. 880.33,  
24 2003 stats., the name, address and telephone number of the parent or guardian  
25 appointed under s. 48.831 of the patient.

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## SECTION 150

1           **SECTION 150.** 146.83 (4) (b) of the statutes is amended to read:

2           146.83 (4) (b) Conceal or withhold a patient health care record with intent to  
3 prevent or obstruct an investigation or prosecution or with intent to prevent its  
4 release to the patient, to his or her guardian ~~appointed under ch. 880~~, to his or her  
5 health care provider with a statement of informed consent, or under the conditions  
6 specified in s. 146.82 (2), or to a person with a statement of informed consent.

7           **SECTION 151.** 154.07 (2) of the statutes is amended to read:

8           154.07 (2) EFFECT OF DECLARATION. The desires of a qualified patient who is  
9 competent supersede the effect of the declaration at all times. If a qualified patient  
10 is adjudicated incompetent at the time of the decision to withhold or withdraw  
11 life-sustaining procedures or feeding tubes, a declaration executed under this  
12 subchapter is presumed to be valid. The declaration of a qualified patient who is  
13 diagnosed as pregnant by the attending physician has no effect during the course of  
14 the qualified patient's pregnancy. For the purposes of this subchapter, a physician  
15 or inpatient health care facility may presume in the absence of actual notice to the  
16 contrary that a person who executed a declaration was of sound mind at the time.

17           **SECTION 152.** 154.13 (2) (c) of the statutes is amended to read:

18           154.13 (2) (c) The court and all parties involved in proceedings in this state for  
19 guardianship of adjudication of incompetency and appointment of a guardian for the  
20 declarant ~~under ch. 880~~, for emergency detention under s. 51.15, for involuntary  
21 commitment under s. 51.20, or for protective placement or protective services under  
22 ch. 55.

23           **SECTION 153.** 155.05 (1) of the statutes is amended to read:

24           155.05 (1) An individual who is of sound mind and has attained age 18 may  
25 voluntarily execute a power of attorney for health care. An individual for whom an

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1 adjudication of incompetence and appointment of a guardian of the person is in effect  
2 ~~under ch. 880 in this state~~ is presumed not to be of sound mind for purposes of this  
3 subsection executing a power of attorney for health care.

4 **SECTION 154.** 155.40 (2m) of the statutes is created to read:

5 155.40 (2m) If a principal, after executing a power of attorney for health care,  
6 is adjudicated incompetent in this state, the power of attorney for health care  
7 remains in effect, except that a court may under s. 54.46 (2) (b), for good cause shown,  
8 revoke the power of attorney for health care and invalidate the power of attorney for  
9 health care instrument, or limit the authority of the agent under the terms of the  
10 power of attorney for health care instrument.

11 **SECTION 155.** 155.60 (1) of the statutes is amended to read:

12 155.60 (1) Nothing in this chapter prohibits an individual from petitioning a  
13 court ~~under ch. 880 in this state~~ for a determination of incompetency and for  
14 appointment of a guardian for an individual who is a principal under this chapter.

15 **SECTION 156.** 155.60 (2) of the statutes is amended to read:

16 155.60 (2) ~~If a court under s. 880.33 determines that an individual who is a~~  
17 ~~principal is adjudicated incompetent or makes a finding of limited incompetency~~  
18 ~~under s. 880.33 (3) and appoints a guardian for the individual in this state and a~~  
19 ~~guardian is appointed for him or her,~~ the power of attorney for health care executed  
20 under this chapter by the principal ~~is revoked and the power of attorney for health~~  
21 ~~care instrument is invalid, unless~~ remains in effect, except that the court finds that  
22 may under s. 54.46 (2) (b), for good cause shown, revoke the power of attorney for  
23 health care and invalidate the power of attorney for health care instrument should  
24 remain in effect. If, or limit the authority of the agent under the terms of the power  
25 of the power of attorney for health care instrument. Unless the court makes this

## SENATE BILL 391

## SECTION 156

1 ~~finding revocation or limitation~~, the guardian for the individual may not make health  
2 care decisions for the ward that may be made by the health care agent, unless the  
3 guardian is the health care agent.

4 **SECTION 157.** 155.65 (2) (c) of the statutes is amended to read:

5 155.65 (2) (c) The court and all parties involved in proceedings in this state for  
6 ~~guardianship of adjudication of incompetency and appointment of a guardian for the~~  
7 ~~principal under ch. 880~~, for emergency detention under s. 51.15, for involuntary  
8 commitment under s. 51.20, or for protective placement or protective services under  
9 ch. 55.

10 **SECTION 158.** 179.65 of the statutes is amended to read:

11 **179.65 Power of estate of deceased or incompetent partner**  
12 **adjudicated incompetent.** If a partner who is an individual dies or is adjudged  
13 adjudicated incompetent to manage his or her person or property, the partner's  
14 personal representative, guardian, conservator, or other legal representative may  
15 exercise all of the partner's rights for the purpose of settling his or her estate or  
16 administering his or her property, including any power the partner had to give an  
17 assignee the right to become a limited partner. If a partner is a corporation, limited  
18 liability company, trust, or other entity and is dissolved or terminated, the powers  
19 of that partner may be exercised by its legal representative or successor.

20 **SECTION 159.** 180.0103 (11) of the statutes is amended to read:

21 180.0103 (11) "Individual" includes the estate of an individual adjudicated  
22 incompetent or a deceased natural person.

23 **SECTION 160.** 181.0103 (14) of the statutes is amended to read:

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1           181.0103 (14) “Individual” means a natural person. Except in ss. 181.0802 and  
2           181.0840, “individual” includes the estate of an individual adjudicated incompetent  
3           or a deceased natural person.

4           **SECTION 161.** 186.10 (2) of the statutes is amended to read:

5           186.10 (2) SHARES IN TRUST. Shares may be issued in trust, subject to any  
6           conditions prescribed in the bylaws. Share accounts and deposit accounts may be  
7           held by a member in trust for a beneficiary, held by a nonmember in trust for a  
8           beneficiary who is a member or held by a nonmember custodian for a member  
9           pursuant to ss. ~~880.61 to 880.72~~ under ss. 54.854 to 54.898.

10          **SECTION 162.** 214.37 (4) (k) 1. of the statutes is amended to read:

11          214.37 (4) (k) 1. An affidavit stating that the person has standing under s.  
12          867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or assignment  
13          of a decedent’s estate or that the person is an heir of the decedent, or was guardian,  
14          as defined in s. 54.01 (10) or s. 880.01 (3), 2003 stats., of the decedent at the time of  
15          the decedent’s death, and may obtain transfer of property of a decedent under s.  
16          867.03.

17          **SECTION 163.** 215.14 (9) (title) of the statutes is amended to read:

18          215.14 (9) (title) SAVINGS ACCOUNTS OF DECEASED OR INCOMPETENT PERSONS.

19          **SECTION 164.** 215.26 (8) (e) 1. of the statutes is amended to read:

20          215.26 (8) (e) 1. Submits an affidavit stating that the person has standing  
21          under s. 867.01 (3) (ac) or 867.02 (2) (ac) to petition for summary settlement or  
22          assignment of a decedent’s estate or that the person is an heir of the decedent, or was  
23          guardian, as defined in s. 54.01 (10) or s. 880.01 (3), 2003 stats., of the decedent at  
24          the time of the decedent’s death, and may obtain transfer of property of a decedent  
25          under s. 867.03; and

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## SECTION 165

1       **SECTION 165.** 223.03 (6) (intro.) of the statutes is amended to read:

2       223.03 (6) (intro.) To act as trustee, personal representative, registrar of stocks  
3       and bonds, custodian, agent, guardian of estates, ~~guardian of any person~~ the estate  
4       or guardian of the person of any individual subject to guardianship, assignee,  
5       receiver, and in any other fiduciary capacity authorized by the division, subject to all  
6       of the following conditions:

7       **SECTION 166.** 223.10 of the statutes is amended to read:

8       **223.10 Organizations as fiduciaries.** Except as provided in s. 880.35 54.15  
9       (7), no court or probate registrar in this state may appoint or issue letters to any  
10       corporation, limited liability company, association, partnership or business trust as  
11       trustee, personal representative, guardian, conservator, assignee, receiver, or in any  
12       other fiduciary capacity unless such corporation, limited liability company,  
13       association, partnership or business trust is subject to regulation and examination  
14       under s. 223.105, or is a national bank, state or federal savings and loan association,  
15       state or federal savings bank or federal credit union with authority to exercise such  
16       powers, or is a foreign corporation operating under s. 223.12.

17       **SECTION 167.** 243.07 (3) (a) of the statutes is amended to read:

18       243.07 (3) (a) If, following execution of a durable power of attorney, ~~a court of~~  
19       ~~the principal's domicile appoints a conservator, guardian of the estate, or other~~ the  
20       individual who is the principal is adjudicated incompetent and a guardian is  
21       appointed for him or her, a conservator is appointed for him or her under s. 54.76, or  
22       another fiduciary is charged by a court with the management of all or some of the  
23       principal's property ~~or all of his or her property except specified exclusions, the agent~~  
24       ~~is accountable to the fiduciary as well as to the principal. Unless the court finds that~~  
25       ~~the durable power of attorney should remain in effect, the fiduciary has the same~~

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## SECTION 167

1     ~~power to revoke or amend the power of attorney that the principal would have had~~  
2     ~~if the principal were not disabled or incapacitated, the durable power of attorney~~  
3     ~~executed under this chapter by the principal remains in effect, except that the court~~  
4     ~~may under s. 54.46 (2) (c) or s. 54.76 (3g) or, for a fiduciary, after a hearing upon a~~  
5     ~~petition, as applicable, for good cause shown, revoke the durable power of attorney~~  
6     ~~and invalidate the basic power of attorney for finances and property or limit the~~  
7     ~~authority of the agent under the terms of the basic power of attorney for finances and~~  
8     ~~property. Unless the court makes this revocation or limitation, the guardian,~~  
9     ~~conservator, or other fiduciary, as applicable, may not make decisions for the~~  
10    ~~principal that may be made by the agent, unless the guardian, conservator, or~~  
11    ~~fiduciary is the agent.~~

12         **SECTION 168.** 243.07 (3) (b) of the statutes is amended to read:

13         243.07 (3) (b) A principal may nominate, by a durable power of attorney, the  
14     conservator, guardian of his or her estate, or guardian of his or her person for  
15     consideration by the court if ~~protective guardianship or conservatorship~~ proceedings  
16     for the principal's person or estate are ~~thereafter~~ commenced after execution of the  
17     durable power of attorney. The court shall make its appointment in accordance with  
18     the principal's most recent nomination in a durable power of attorney except for good  
19     cause or disqualification.

20         **SECTION 169.** 243.10 (7) (c) of the statutes is created to read:

21         243.10 (7) (c) If a principal, after executing a durable power of attorney, is  
22     adjudicated incompetent in this state, has a conservator appointed for him or her, or  
23     a court charges another fiduciary with the management of all or some of his or her  
24     property, a court may under s. 54.46 (2) (c) or 54.76 (3g) or, for a fiduciary, after a  
25     hearing upon a petition, as applicable, for good cause shown, revoke the durable

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## SECTION 169

1 power of attorney or limit the authority of the agent under the terms of the durable  
2 power of attorney.

3 **SECTION 170.** 252.15 (2) (a) 4. a. of the statutes is amended to read:

4 252.15 (2) (a) 4. a. The individual has been adjudicated incompetent ~~under ch.~~  
5 ~~880 in this state~~, is under 14 years of age or is unable to give consent because he or  
6 she is unable to communicate due to a medical condition.

7 **SECTION 171.** 252.15 (2) (a) 4. b. of the statutes is amended to read:

8 252.15 (2) (a) 4. b. The health care provider obtains consent for the testing from  
9 the individual's guardian, if the individual is adjudicated incompetent ~~under ch. 880~~  
10 ~~in this state~~; from the individual's parent or guardian, if the individual is under 14  
11 years of age; or from the individual's closest living relative or another with whom the  
12 individual has a meaningful social and emotional relationship if the individual is not  
13 a minor nor adjudicated incompetent.

14 **SECTION 172.** 252.15 (2) (bm) (intro.) of the statutes is amended to read:

15 252.15 (2) (bm) (intro.) The health care provider that subjects a person to a test  
16 for the presence of HIV, antigen or nonantigenic products of HIV, or an antibody to  
17 HIV under par. (a) 3. shall provide the test subject and the test subject's guardian,  
18 if the test subject is an individual found incompetent under ch. 880 in this state, with  
19 all of the following information:

20 **SECTION 173.** 252.15 (5) (a) 15. of the statutes is amended to read:

21 252.15 (5) (a) 15. To anyone who provides consent for the testing under sub. (2)  
22 (a) 4. b., except that disclosure may be made under this subdivision only during a  
23 period in which the test subject is adjudicated incompetent ~~under ch. 880 in this~~  
24 ~~state~~, is under 14 years of age, or is unable to communicate due to a medical  
25 condition.



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1           **SECTION 174.** 253.10 (3) (c) 7. of the statutes is amended to read:

2           253.10 (3) (c) 7. If the woman considering an abortion is a minor, unless s.  
3           48.375 (4) (a) 2. applies, the requirements to provide information to the woman under  
4           subds. 1. to 6. apply to also to require provision of the information to the individual  
5           whose consent is also required under s. 48.375 (4) (a) 1. If the woman considering  
6           an abortion ~~has been adjudicated~~ is an individual adjudicated incompetent under ch.  
7           880 in this state, the requirements to provide information to the woman under subds.  
8           1. to 6. apply to also require provision of the information to the person appointed as  
9           the woman's guardian.

10          **SECTION 175.** 343.06 (1) (L) of the statutes is created to read:

11          343.06 (1) (L) To any person who has been declared incompetent under s. 54.25  
12          (2) (c) 1. d. to apply for an operator's license.

13          **SECTION 176.** 343.31 (title) of the statutes is amended to read:

14          **343.31 (title) Revocation or suspension of licenses after certain**  
15          **convictions or declarations.**

16          **SECTION 177.** 343.31 (2x) of the statutes is created to read:

17          343.31 (2x) The department shall suspend a person's operating privilege upon  
18          receiving a record of a declaration under s. 54.25 (2) (c) 1. d. that the person is  
19          incompetent to apply for an operator's license. The department may reinstate the  
20          person's operator's license upon receiving a record of a declaration that the person  
21          is no longer incompetent to apply for an operator's license under s. 54.25 (2) (c) 1. d.,  
22          if the person is otherwise qualified under this chapter to obtain an operator's license.

23          **SECTION 178.** 343.31 (3) (a) of the statutes is amended to read:

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## SECTION 178

1           343.31 (3) (a) Except as otherwise provided in this subsection or sub. (2m) or,  
2           (2s), or (2x), all revocations or suspensions under this section shall be for a period of  
3           one year.

4           **SECTION 179.** 403.308 (1) of the statutes is amended to read:

5           403.308 (1) In an action with respect to an instrument, the authenticity of, and  
6           authority to make, each signature on the instrument is admitted unless specifically  
7           denied in the pleadings. If the validity of a signature is denied in the pleadings, the  
8           burden of establishing validity is on the person claiming validity, but the signature  
9           is presumed to be authentic and authorized unless the action is to enforce the liability  
10          of the purported signer and the signer is dead or adjudicated incompetent at the time  
11          of trial of the issue of validity of the signature. If an action to enforce the instrument  
12          is brought against a person as the undisclosed principal of a person who signed the  
13          instrument as a party to the instrument, the plaintiff has the burden of establishing  
14          that the defendant is liable on the instrument as a represented person under s.  
15          403.402 (1).

16          **SECTION 180.** 440.121 of the statutes is created to read:

17          **440.121   Credential denial, nonrenewal, and revocation based on**  
18          **incompetency.** Notwithstanding any other provision of chs. 440 to 480 relating to  
19          issuance or renewal of a credential, the department shall deny an application for an  
20          initial credential or credential renewal or revoke a credential issued to an individual  
21          for whom the department receives a record of a declaration under s. 54.25 (2) (c) 1.  
22          d. stating that the individual is incompetent to apply for a credential under chs. 440  
23          to 480.

24          **SECTION 181.** 565.30 (2) of the statutes is amended to read:

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## SECTION 181

1           565.30 (2) PAYMENT OF PRIZES TO MINORS. If the prize for a winning lottery ticket  
2           or lottery share given to a minor is less than \$1,000, the administrator may make  
3           payment of the prize by delivering to an adult member of the minor's family, or to the  
4           minor's guardian, a check or draft payable to the minor. If the prize is \$1,000 or more,  
5           the administrator shall make payment to the minor by paying or delivering the  
6           money to a broker or financial institution under s. ~~880.65~~ 54.870 (1) (b).

7           **SECTION 182.** 609.65 (1) (intro.) of the statutes is amended to read:

8           609.65 (1) (intro.) If an enrollee of a limited service health organization,  
9           preferred provider plan, or defined network plan is examined, evaluated, or treated  
10          for a nervous or mental disorder pursuant to a court order under s. 880.33 (4m) or  
11          (4r), 2003, stats., an emergency detention under s. 51.15, a commitment or a court  
12          order under s. 51.20 or 880.33 (4m) or (4r), an order for protective placement or  
13          protective services under ch. 55, an order under s. 55.14 or 55.19 (3) (e), or an order  
14          under ch. 980, then, notwithstanding the limitations regarding participating  
15          providers, primary providers, and referrals under ss. 609.01 (2) to (4) and 609.05 (3),  
16          the limited service health organization, preferred provider plan, or defined network  
17          plan shall do all of the following:

18          **SECTION 183.** 628.10 (1) of the statutes is amended to read:

19          628.10 (1) GENERAL. An intermediary's license issued under s. 628.04 remains  
20          in force until it is revoked or limited under sub. (2), until it is suspended under sub.  
21          (2) or s. 227.51 (3), until it is surrendered or until the licensee dies or is in this state  
22          adjudicated incompetent as defined in s. 880.01 (4).

23          **SECTION 184.** 705.04 (2) of the statutes is amended to read:

24          705.04 (2) If the account is a P.O.D. account, on the death of the original payee  
25          or the survivor of 2 or more original payees, any sums remaining on deposit belong

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## SECTION 184

1 to the P.O.D. beneficiaries if surviving, or to the survivor of them if one or more die  
2 before the original payee. Payment may be made to a minor P.O.D. beneficiary,  
3 however, only in accordance with a procedure approved in ch. 880 54. If 2 or more  
4 P.O.D. beneficiaries survive, they shall be entitled to payment of the sums on deposit  
5 in accordance with such written instructions as may have been filed with the  
6 financial institution, and if none, to payment in equal shares. There is no right of  
7 survivorship in the event of the death of one of 2 or more P.O.D. beneficiaries after  
8 their entitlement to payment has matured unless the terms of the account expressly  
9 provide for survivorship or for the account's continuance as a joint account.

10 **SECTION 185.** 706.03 (4) of the statutes is amended to read:

11 706.03 (4) A conveyance by a minor or an individual adjudicated incompetent  
12 in this state is effective only if executed by an authorized guardian on behalf of ~~such~~  
13 ~~the~~ minor or individual adjudicated incompetent. ~~In the case of a limited~~  
14 ~~incompetency, such~~ This restriction does not apply if ~~an individual has been~~  
15 ~~determined competent to make contracts under s. 880.33 (3) the individual's~~  
16 adjudication of incompetency permits him or her to contract.

17 **SECTION 186.** 706.09 (1) (f) of the statutes is amended to read:

18 706.09 (1) (f) *Lack of authority of officers, agents or fiduciaries.* Any defect or  
19 insufficiency in authorization of any purported officer, partner, manager, agent, or  
20 fiduciary to act in the name or on behalf of any corporation, partnership, limited  
21 liability company, principal, trust, estate, minor, individual adjudicated  
22 incompetent, or other holder of an interest in real estate purported to be conveyed  
23 in a representative capacity, after the conveyance has appeared of record for 5 years.

24 **SECTION 187.** 753.30 (1) of the statutes is amended to read:

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1           753.30 (1) The clerk of circuit court shall keep the books and records under s.  
2           59.40 (2) (a) to (i) and ch. 799 and perform the duties under s. 59.40 (2) (j) to (q) for  
3           all matters in the circuit court except those under chs. 48, 54, and 851 to 880 879.  
4           In counties having only one circuit judge, the circuit judge, with the approval of the  
5           chief judge of the judicial administrative district, may appoint the clerk of court  
6           register in probate. The appointments are revocable at the pleasure of the circuit  
7           judge. Appointments and revocations shall be in writing and shall be filed in the  
8           office of the register in probate. If appointed for this purpose, the clerk has the  
9           powers and duties of registers in probate. In prosecutions of ordinance violations in  
10          the circuit court in counties having a population of 500,000 or more, an assistant  
11          chief deputy clerk appointed under sub. (3) (a), or one of his or her deputies, shall  
12          enter upon the records of the court a statement of the offense charged, which shall  
13          stand as the complaint, unless the court directs formal complaint be made. The  
14          defendant's plea shall be guilty or not guilty, and shall be entered as not guilty on  
15          failure to plead, which plea of not guilty shall put all matters in such case at issue,  
16          any other provisions of law notwithstanding.

17           **SECTION 188.** 757.48 (1) (a) of the statutes is amended to read:

18           757.48 (1) (a) Except as provided in s. 879.23 (4), in all matters in which a  
19          guardian ad litem is appointed by the court, the guardian ad litem shall be an  
20          attorney admitted to practice in this state. In order to be appointed as a guardian  
21          ad litem under s. 767.045, an attorney shall have completed 3 hours of approved  
22          continuing legal education that relates to the functions and duties of a guardian ad  
23          litem under ch. 767 and that includes training on the dynamics of domestic violence  
24          and the effects of domestic violence on victims of domestic violence and on children.

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1 In order to be appointed as a guardian ad litem under s. 54.40 (1), an attorney shall  
2 have complied with SRC chapter 36.

3 **SECTION 189.** 757.48 (3) of the statutes is amended to read:

4 757.48 (3) No guardian ad litem may be permitted to receive any ~~money or~~  
5 ~~property~~ assets or income of his or her ward, nor may any bond be required of a  
6 guardian ad litem, but all ~~money or property of his or her~~ assets or income of the ward  
7 may be paid or delivered to ~~a general guardian of his or her property~~ the ward's  
8 guardian of the estate, subject to the exceptions of s. 880.04 54.12.

9 **SECTION 190.** 757.69 (1) (h) of the statutes is amended to read:

10 757.69 (1) (h) Hear petitions for commitment and conduct probable cause  
11 hearings under ss. 51.20, 51.45 and 55.06 (11), conduct reviews of guardianships  
12 under ch. 54 and reviews of protective placements and protective services under ~~chs.~~  
13 ~~ch. 55 and 880~~, advise a person alleged to be mentally ill of his or her rights under  
14 the United States and Wisconsin constitutions, and, if the person claims or appears  
15 to be unable to afford counsel, refer the person to the authority for indigency  
16 determinations specified under s. 977.07 (1) or, if the person is a child, refer that child  
17 to the state public defender, who shall appoint counsel for the child without a  
18 determination of indigency, as provided in s. 48.23 (4).

19 **SECTION 191.** 758.19 (6) (a) of the statutes is amended to read:

20 758.19 (6) (a) In this subsection, “guardian ad litem costs” means the costs of  
21 guardian ad litem compensation that a county incurs under ch. 48, 54, 55, 767, 880  
22 or 938 or ch. 880, 2003 stats., that the county has final legal responsibility to pay, or  
23 that the county is unable to recover from another person and that does not exceed  
24 the per hour rate established for time spent in court by private attorneys under s.  
25 977.08 (4m) (b).